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Fax Cover Sheet

Date: 26 Mar 2003

To: Steven M. Mills	**From:** Steven H. Rao
Application/Control Number: 09/994,508	**Art Unit:** 2814
Fax No.: (617) 742-7774	**Phone No.:** (703) 3065945
Voice No.: (202) 756-8000	**Return Fax No.:** (703) 7463926
Re: U.S. Serial No.09/994508	**CC:**

☒ **Urgent** ☐ **For Review** ☐ **For Comment** ☐ **For Reply** ☐ **Per Your Request**

Comments:
As per Mr. Mills's telephone call on March 25, 2003 and the telephone conversation between Mr. Fahmy, Ex. Rao and Ms. Lisa on March 26, 2003.enclosed please find a copy of the advisory action of 01/07/03. We look forward to receiving a copy of the notice of appeal that you will file today.

Thank you.

Steven Rao

Number of pages 3 **including this page**

Advisory Action	Application No. 09/994,508	Applicant(s) KIM ET AL.	
	Examiner Steven H. Rao	Art Unit 2814	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 December 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☐ The a)☐ affidavit, b)☐ exhibit, or c)☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-22*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s).

10. ☐ Other: *See Continuation Sheet*

Wael Fahmy

SUPERVISORY PRIMARY EXAMINER
TECHNOLOGY CENTER 2800

Continuation of 10. Other: Applicants' contention that the applied Fobres reference does not teach or suggest the plasma treatment of a formed silicon oxycarbide layer is not persuasive because figure 1 Of Fobres shows silicon carbide layer 105 being formed and on top of which layer 110 (silicon oxycarbide) is formed by plasma assisted cvd as described in col. 10 lines 15. This multilevel layer 110 formation consists of several steps wherein first layer of SiOC is formed by plasma CVD using a starting ratio of nitrous oxide and methane and then the thus formed SIOC layer is exposed to a second plasma having a different ratio of nitrous oxide to methane and this process repeated to ultimately form multilevel layer 110 having a substantially continuously graded SiOC material. The repeated exposure to plasma of varying ratio of methane to nitrous oxide produces multi layer 110 having a continuously graded SiOC material wherein the graded SIOC layer has more oxygen and less carbon in the direction of the continuous grade. (Fobres col. 10 lines 21-41). Thus plasma is used (exposure to plasma) on each formed layer of the multilayer 110.